

**Local Government Mandate Statement
Kentucky Legislative Research Commission
2021 Regular Session**

Part I: Measure Information

Bill Request #: 1243

Bill #: HB 267 HCS

Document ID #: 6408

Bill Subject/Title: AN ACT relating to local government.

Sponsor: Representative Adam Koenig

Unit of Government: City County Urban-County
Unified Local
 Charter County Consolidated Local Government

Office(s) Impacted: Cities, counties, local law enforcement, constables

Requirement: Mandatory Optional

Effect on

Powers & Duties: Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

The HCS retains the original provisions of HB 267 which detail the powers and duties of constables. HB 267 HCS prohibits any constable elected for the first time after January 1, 2023, from exercising general police powers unless certified and maintains their certification, pursuant to 15.380. It leaves all other constables unchanged.

HB 267 HCS amends KRS 15.707, 16.060, 61.300, and 61.310 by deleting constables and deputy constables. It amends KRS 63.170 and 63.180 by adding constables and deputy constables.

KRS 64.060 is amended to remove noncertified constables from the fee schedule for services and allows certified constables to continue to receive fees per the schedule.

HB 267 HCS amends KRS 64.190 to amend the constable fee schedule and amends KRS 64.200 to exclude urban-county governments from constable compensation requirements. It also establishes reporting requirements for constables and deputy constables.

This legislation amends KRS 70.310 to require deputy constables to execute bond in an amount determined sufficient by the county governing body, the minimum amount of which shall be \$10,000. It amends KRS 70.320 to allow the appointment of deputy constables and specifies how they are appointed, the number of authorized positions, and their qualifications. The Act amends KRS 70.350 to specify where constables may execute warrants. KRS 70.410 is amended to include deputy constables under the recovery of bond. It amends KRS 70.430 to specify the nature and recipient of constable and deputy constable's reports. **It permits fiscal courts or legislative body of any county greater than 70,000, the authority to retain 25% of fees collected.** KRS 70.440 is also amended, to include mandated or required reports within the false reporting prohibitions. If an urban-county government or a consolidated local government elects by ordinance, the county clerk receiving reports under subsection (1)(a) of this section shall be entitled to collect the administrative fee provided in paragraph (a) of this subsection. If authorized, any fees collected by a county clerk under this subsection may be shared evenly between the county clerk and the county government, as provided in the ordinance.

KRS 148.056 is amended to require constables be granted peace officer powers. KRS 150.100 is amended to remove constables. KRS 164.955 and 183.881 are amended to specify that powers of constables are not being diluted or removed when granted police powers. KRS 183.881 is further amended to specify that constable powers are not impaired or diminished.

It amends KRS 189.950 to permit vehicle blue lights for constables if the county grants them the authority and if they are certified as peace officers.

The Act amends KRS 230.240 and 281.765 to require constables have police power, and further amends KRS 281.765 to require deputy constables to have police powers.

HB 267 HCS amends the definition of “peace officers” in KRS 446.010 by requiring constables have police powers to be considered a peace officer.

HB 267 HCS amends KRS 15.404 to allow any constable who is elected, to apply for admission to a basic training course as established by KRS 15.440, at a school certified or recognized by the Kentucky Law Enforcement Council (KLEC). The constable shall meet all the precertification requirements pursuant to KRS 15.382 in order to attend. The constable shall be responsible for all costs associated the completion of the training except the costs of basic training at a course established pursuant to KRS 15.340. The basic training course shall accept the constable as long as the constable meets the precertification requirements and the training course has the training capacity to instruct the constable. HB 267 HCS also amends KRS 15.340 to direct the Department of Criminal Justice Training to accept at least one qualified constable per training class and that the constable is responsible for all training costs.

HB 267 HCS sets the effective dates for Sections 1 to 26 as January 1, 2023, and that Section 27 shall take effect July 1, 2023.

The fiscal impact of this bill is indeterminate and minimal. Sheriff's departments already serve the majority of court papers. The legislation would likely minimally increase revenue for some sheriff's departments. Typically, municipal agencies have not been involved with serving civil process papers. Some fiscal courts will receive some benefit from provisions of the HCS. Counties with a population greater than 70,000, are authorized to retain 25 percent

of fees collected by constables. According to the Kentucky League of Cities (KLC) there should be little fiscal impact. Louisville and Lexington could receive a portion of the fees that constables collect if they choose, but that would be a minimal, positive financial impact if they did. It would also be less likely for city police to deal with untrained and uncertified constables attempting to enforce laws, which could lead to slightly lower costs and more efficient policing efforts.

Local governments that choose to create ordinances will incur costs associated with the drafting, publication, indexing and recording of adopted ordinances, and at least every five years, review and eliminate redundant, obsolete, inconsistent, and invalid provisions.

According to KLC, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting an ordinance is influenced by its complexity and the amount of research that is necessary. In FY 2020, the average hourly rate was \$107. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published and the newspaper in which the publication is placed. Therefore, these costs are unknown.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The fiscal impact for HB 267 HCS remains the same as the LM for HB 267 as introduced.

The HCS prohibits any constable elected for the first time after January 1, 2023, from exercising general police powers unless certified, leaving all other constables unchanged. It amends various sections of the KRS as they relate to constable powers and duties, especially those with police powers. HCS allows constables to apply for training at any KLEC approved basic training course, with the constable being responsible for all precertification costs, all costs associated with completion of basic training except for the costs of basic training at a course established pursuant to KRS 15.340. HCS also requires the Department of Criminal Justice Training to accept at least one qualified constable per training class for training. It delays effect date of Sections 1-26 to January 1, 2023, and makes Section 27 effective July 1, 2021.

Data Source(s): Kentucky Fraternal Order of Police, Kentucky Sheriffs' Association; Kentucky Association of Chiefs of Police; Kentucky League of Cities

Preparer: Mark Offerman **Reviewer:** KHC **Date:** 3/3/21